NOTICE.

The following Bill, leave to introduce which was granted at the meeting of the Sri Chitra State Council held on the 8th February 1946, is published for general information.

Council Office,
February 1946.

S. VAIDYANATHA AIYAR,
Secretary to the Sri Chitra State Council.

THE INTEREST BILL.

Whereas it is expedient and necessary to pass an act empowering courts to award interest in certain cases, it is hereby enacted as follows :—

1. This Act is called the Interest Act of 1112.

2. It shall come into force at once.

3. Upon all debts of sums certain payable at a certain time or otherwise the court before which such debts or sums may be recovered may if it shall think fit allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable if such debts or sums be payable by virtue of some written instrument at a certain time or if payable otherwise then from the time when demand of payment shall have been made in writing so as such demands shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment provided that interest shall be payable in all cases in which it is now payable by law.

4. (1) In any proceedings tried in any court for the recovery of any debt or damages, the court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate not exceeding the current rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment.

Provided that nothing in this section—

(*a*) shall authorise the giving of interest upon interest; or

(*b*) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or

(*c*) shall affect the damages recoverable for the dishonour of bill of exchange.

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Objects and reasons for the Bill.

Very often the question of award of interest on moneys due when there is no contract or Custom specifying interest comes before courts. In the absence of a statutory provision courts find it difficult to do substantial justice. Neither under the common law nor under the contract act can interest be claimed upon a debt unless there is either an express promise to pay interest or such promise can be implied from the usage of trade. To avoid this difficulty in British India, Interest Act XXXII of 1939 was passed. Honourable Judges of our High Court have also expressed the necessity for similar legislation here. Though there are some provisions as regards interest in Act 1 of 1010 *i.e*, sections 7 and 17, and C. P. C. they do not authorise courts to award interest in cases where there is no agreement or custom or usage for awarding interest. In XXII T. L. J. F. B. 1381 the question as to award of interest and powers of courts in such cases came up for consideration. The leading judgment was written by His Lordship Mr. P. K. Narayana Pillai. There it is observed as follows: "The unqualified proposition in its wide sense that interest may be claimed as damages in any case in equity is not entertainable. Interest depends upon contract express or implied or on some rule of law allowing it. If there is no contract, allowance of interest can be made only as a matter of law." His Lordship Chief Justfice Chatfield who agreed with Mr. P. K. Narayana Pillai went a step further and expressed the following opinion. "There is no doubt a great deal to be said for making a person responsible for interest on amounts which he has prevented another from drawing by raising untenable contentions. But this is a matter more for the Legislature than for courts." Very recently the same question again came up for consideration in a case reported in 1945 T. L. R. 605. His Lordship the Chief Justice has observed therein as follows at page 607. "It is by now well settled according to the decision in British India that interest is not awardable as damages..... ...I may take leave to mention that the interests of substantial justice would be considerably served by an enactment in the state on the lines of the English Law Reform Act of 1934 regarding the award of interest as damages. Hence the bill on the lines suggested in 1945 T. L. R. 605 section 3 is a reproduction of the section in the British Indian Interest Act XXXII of 1839 and section 4 is added on the lines of the sugges ions contained in the 1945 T. L. R. case and is a reproduction of section 3 of the English Law Reforms Act of 1934. The act is only an enabling one by which the court is vested with a discretion to grant interest in certain cases.

G. NARAYANA AIYAR,
27-3-21.

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